IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2716 of 2000

to

FIRST APPEAL No 2741 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

STATE OF GUJARAT

Versus

AMBARAM MADHAVDAS PATEL

Appearance:

MS RV ACHARYA AGP for Appellant No.1

MR GC MAZMUDAR for Appellant No.2

MR JM PATEL for MR AJ PATEL for Respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 17/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. This group of 26 First Appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure is directed against the order and award dated 31.1.2000 passed by the learned 2nd Joint Civil Judge (S.D.), Mehsana in Land Acquisition Reference Cases No.200/99 to 225/99, the Land Acquisition Reference Case No.200/99 being the main case. The lands of Village Daran, Taluka Kadi were sought to be acquired for the purposes of Narmada Canal. For this purpose, the notification under Section 4 was issued on 1.8.1991 and the notification under Section 6 was issued on 28.7.1992. The Land Acquisition Officer passed the award on 29.6.1994 and determined the rate of compensation to be paid to the claimants at the rate of Rs.3.30 per sq. mtr. The claimants claimed Rs.30/- per sq. mtr. and, therefore, the matter was taken for Reference under Section 18 of the Land Acquisition Act and the Reference Court determined the rate to be Rs.24.70 in addition to the rate of Rs.3.30 per sq. mtr. determined by the Land Acquisition Officer. Thus, the compensation was payable to the claimants at the rate of Rs.28/- per sq. mtr.

2. The Reference Court relied upon the deposition of Govindbhai Ambalal Patel as claimant at Exh.13, and the previous awards at Exhs.47, 48 and 49 which had been passed with regard to the Villages Vidaj, Shiyapura and Dudhai of Taluka Kadi. In these previous awards, the date of issue of notification under Section 4 was, 29.8.1991, 18.4.1991 and 11.12.1986. The Reference Court also placed reliance on the Village Form No.7/12 at Exhs. 14 to 36; deposition of Shantilal Govindlal Suthar at Exh.53 who was examined as a departmental witness and the documents at Exhs.54 to 60 showing the price of lands of village Daran. In case of Village Vidaj, though under Exh.47 the District Court had awarded compensation at Rs.28/- per sq. mtr., the same was reduced by the High Court to Rs.26.60 per sq. mtr. and similar was the fate in case of the award at Exh.49 relating to Village Dudhai. There is no dispute between the parties that the Village Daran, Taluka Kadi is a village adjoining to the villages Vidaj and Shiyapura and in other identical matters, the High Court has reduced the rate of compensation from Rs.28/- to Rs.26.60 per sq. mtr. It is the common case of the parties that the previous awards, which had been relied upon while passing the orders which are impugned in these appeals, had been

challenged before this Court in separate proceedings and the same was modified in First Appeals No.1088/2000 to 1097/2000 decided on 14.12.2000 whereby the rate of compensation was reduced by the High Court to Rs.26.60 per sq. mtr. The rate of Rs.28/- per sq. mtr. as has been determined in these matters, therefore, deserves to be reduced accordingly to Rs.26.60 per sq. mtr.

3. Having gone through the record and having heard the learned counsel for both the sides, even with regard to the comparable qualities of the lands in two cases, we find that the rate of Rs.28/- per sq. mtr. is required to be reduced to Rs.26.60 per sq. mtr. in these matters also. The impugned order and award dated 31.1.2000 is, therefore, modified only to the extent that the rate at which the compensation is to be paid shall be Rs.26.60 per sq. mtr. instead of Rs.28/- per sq. mtr. and the award stands modified accordingly. Rest of the award remains intact as it is. Decree be drawn accordingly.

4. All these 26 First Appeals are partly allowed to the limited extent as above with no order as to costs.

5. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities.

Sd/-
(M.R.Calla, J.)

Sd/-

17.3.2001 (D.H.Waghela, J.)
(KMG Thilake)